

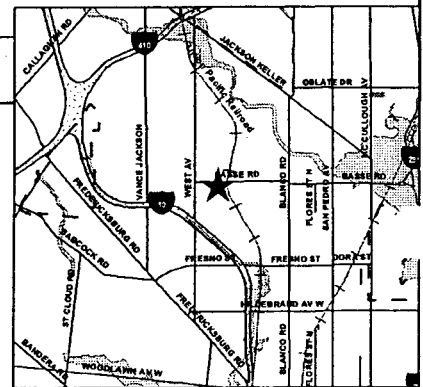
ZONING CASE: Z2005-278 CD

City Council District No. 1
 Requested Zoning Change
 From "R-4" To "R-4" CD
 Date: February 9, 2006
 Scale: 1" = 200'

■ Subject Property
 ○ 200' Notification



C:\Dec_6_2005



CASE NO: Z2005278 CD

Staff and Zoning Commission Recommendation - City Council

Date: February 09, 2006

Zoning Commission Meeting Date: December 06, 2005

Council District: 1 **Ferguson Map:** 582 B4

Applicant: Owner

Marissa Castro Juan Castro

Zoning Request: From "R-4" Residential Single-Family District to "R-4" (CD-Beauty Shop)
Residential Single-Family District with a Conditional Use for a Beauty Shop

Property Location: Lot 22, Block 3, NCB 9667
2239 Basse Road
Northeast Corner of Basse Road and Buckeye

Proposal: To Operate a Beauty Salon

Neighborhood Association: Northwest Los Angeles Heights Neighborhood Association (within 200 feet)

Neighborhood Plan: Greater Dellview Area Community Plan

Traffic Impact Analysis

A Traffic Impact Analysis is not required.

Staff Recommendation:

The applicant's original request was to rezone the subject property from the "R-4" district to the "O-2" district. Staff and Zoning Commission recommended denial of this request. Following the Zoning Commission public hearing, the applicants amended their request, seeking an "R-4" CD, a conditional district to allow a beauty shop in a residential district. The Council may take action on the amended application and move to approve or deny the amended application from "R-4" to "R-4" CD. The Council also has the option of sending the item back to the Zoning Commission since the Commission's previous action was in consideration of "R-4" to "O-2" and not "R-4" to "R-4" CD.

Consistent

The request, from "R-4" to "R-4" (CD-Beauty Shop) is consistent with the Greater Dellview Area Community Plan since the request does not alter the base zoning, which identifies this property for low density residential uses. However, the Plan does contain language referencing a desire by the community to diminish the encroachment of commercial uses into established residential areas. The Planning Department has referenced Section 35.422(e) of the Unified Development Code (UDC) in their comments, which identifies the following development constraints in residential areas:

1. No exterior display or sign with the exception that a nameplate, not exceeding 3 square feet in area, may be permitted when attached to the front of the main structure.
2. No construction features shall be permitted which would place the structure out of character with the surrounding neighborhood.
3. Business or office hours of operations shall not be permitted before 7 a.m. or after 6 p.m.
4. To protect neighborhood integrity, off-street parking shall be permitted behind the primary structure only and not in the front or side yard areas.

Denial

There remains an active Special Exception for a beauty shop as an accessory use. Further, the applicant

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has demonstrated a history of noncompliance with the approved Special Exception, most recently being cited by the city on January 3, 2006. Staff continues to receive complaints that the use is not being conducted in accordance with the conditions imposed by the Board of Adjustment in its approval of the Special Exception.

The beauty shop is an accessory use, as the residence is currently occupied by the applicant, Ms. Castro. A Special Exception was approved by the Board of Adjustment on May 16, 2005, allowing the applicant to bring an existing unlawful beauty shop into compliance as an accessory use conducted from the existing residence. The Special Exception will expire in May of 2006. The applicant's request to the Board was described as follows: "The applicant requests a Special Exception to continue to operate a one (1) operator beauty shop in a residential area. The Board of Adjustment must consider a request for a Special Exception as required in the Unified Development Code. The proposed hours of operation will be 9 AM to 1 PM and 3 PM to 7 PM, Monday and Tuesday, and Thursday through Sunday. Closed on Wednesday. Total proposed hours of operation per week is 48 hours."

The Board of Adjustment considered the application during the public hearing of May 12, 2005, and approved a Special Exception. The Board's action is as follows: "The Board approved the Special Exception for a 1-year Term with the days and hours of operation being Monday-Tuesday and Friday-Sunday 9 a.m. to 1 p.m. and 3 p.m. to 7 p.m. They will be closed Wednesday and Thursday."

In August of 2005, the applicants were informed that their Certificate of Occupancy was subject to suspension due to noncompliance with the restrictions imposed by the Board. On November 3, 2005, the applicants applied to rezone the property and to bring the beauty shop use, now noncompliant for a second time, into compliance. They requested a rezone to "O-2" and both staff and the Zoning Commission recommended denial. A few weeks after Mr. Castro, who jointly owns the property with Ms. Castro, indicated a possible withdrawal of the item, Ms. Castro requested to amend the application to "R-4" (CD-Beauty Shop) and proceed to the City Council for consideration of the amended application. Staff has continued to receive complaints from neighborhood residents that the beauty shop use has expanded and now consists of two operators on weekends and, during some weeks, the beauty shop is open seven days per week and well past the 7 p.m. closing time ordered by the Board of Adjustment.

Beauty and barber shops are prohibited as home occupations in residential districts. However, Section 35-375 of the UDC authorizes the use in conjunction with a residential use upon the approval of a Special Exception by the Board of Adjustment. The Board used these provisions, including time limitations, in its consideration and approval of the Special Exception. Section 35-380(b)(2) of the UDC also authorizes the use with the approval of a Specific Use Permit by the City Council and the applicants were advised to amend their original application to an "R-4 S" or "R-4" CD. A Specific Use Permit would require a site plan and provide staff with an opportunity to review the existing site layout as well as any proposed changes in site development. A Conditional District would enable staff to apply conditions that limit the intensity and scope of the use.

Should the Council take action and approve the requested rezone to "R-4" CD, the following conditions are recommended, with the first three specifically referenced in Section 35-422(e) of the UDC:

1. No exterior display or sign with the exception that a nameplate, not exceeding 3 square feet in area, may be permitted when attached to the front of the main structure.
2. No construction features shall be permitted which would place the structure out of character with the surrounding neighborhood.
3. To protect neighborhood integrity, off-street parking shall be permitted behind the primary structure only and not in the front or side yard areas.
4. All customer waiting areas are limited to inside the residence.
5. The use is limited to one operator and the applicant shall be the only operator.
6. Days of operation are limited to Mondays, Tuesdays, Fridays, Saturdays and Sundays.
7. Hours of operation are limited from 9:00 a.m. to 1:00 p.m. and 3:00 p.m. to 7:00 p.m. on Mondays, Tuesdays, Fridays and Saturdays and from 12:00 p.m. to 5:00 p.m. on Sundays.
8. The Conditional District may only apply to the property as long as the residence is occupied by the

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applicant. Should the applicant no longer reside at the property, the Conditional District allowing the beauty shop as an accessory use shall expire.

Zoning Commission Recommendation:

Denial of "O-2"

CASE MANAGER : Matthew Taylor 207-5876

VOTE

FOR	11
AGAINST	0
ABSTAIN	0
RECUSAL	0

Z2005278 CD

ZONING CASE NO. Z2005278 – December 6, 2005

Applicant: Marissa Castro

Zoning Request: "R-4" Residential Single-Family District to "O-2" Office District.

Marissa Castro, 2239 Basse Rd., owner, stated that she is requesting the rezoning to operate a beauty salon. She further stated that her business is growing and would like to expand her business. She noted that the Board of Adjustment only allowed her to operate 5 days a week and close 2 days, but since her clientele has grown she would like to operate 7 days a week because this is her livelihood.

OPPOSE

Martin Rios, 926 El Monte, a member of Greater Dellview Area Community Plan and the Northwest Los Angeles Heights Neighborhood Association, stated that he is opposed to the request because he does not feel that the applicant should be operating 7 days a week. He further stated that he is concerned about the traffic and the parking problems that the business has created for the residential area. The request is not conducive to the area and he would like to see the application denied.

Marie Ramos, 2232 Basse Road, representing the Northwest Los Angeles Heights Neighborhood Association, stated that their community plan proposes to keep Basse Road a residential area. She further stated that the applicant has broken all the regulations with signage, with long work hours. She stated that the applicant has not tried to work with the surrounding residents or the neighborhood association.

REBUTTAL

Marissa Castro, 2239 Basse Road, stated that she needs to expand her business because she has been having to turn away some of her clientele because of restrictions on the hours of operation.

Staff stated there were 23 notices mailed out to the surrounding property owners, 1 returned in opposition and 2 returned in favor and the Northwest Los Angeles Heights Neighborhood Association is opposed.

Everyone present, for and against having been heard and the results of the written notices having been received, the Chairman declared the public hearing closed.

Z2005278 CD

FINDING OF INCONSISTENCY OF THE MASTER PLAN

COMMISSION ACTION

The motion was made by Commissioner Kissling and seconded by Commissioner Sherrill to find inconsistency with the neighborhood plan.

**AYES: Martinez, Robbins, Rodriguez, Farias, Marshall, Sherrill, McAden, Avila,
Stribling, Kissling, Gray**

NAYS: None

THE MOTION CARRIED

COMMISSION ACTION

The motion was made by Commissioner Kissling and seconded by Commissioner Farias to recommend denial.

1. Property is located on Lot 22, Block 3, NCB 9667 at 2239 Basse Road.
2. There were 23 notices mailed, 1 returned in opposition and 2 in favor.
3. Staff recommends denial.

**AYES: Martinez, Robbins, Rodriguez, Farias, Marshall, Sherrill, McAden, Avila,
Stribling, Kissling, Gray**

NAYS: None

THE MOTION CARRIED

RESULTS OF NOTICE FOR COUNCIL HEARING

To be provided at Council hearing.

Neighborhood and Urban Design Division

Zoning Case Review

Zoning Case No.: Z2005278

Existing Zoning: R-4

Requested Zoning: R4-C

Registered Neighborhood Association(s):

Northwest Los Angeles Heights NA
North Central Neighborhood Coalition

Neighborhood/Community/Perimeter Plan:

Greater Dellview Area Community Plan

Future Land Use for the site:

Low Density Residential

Other Comments:

The Community Plan states that the community would like to diminish occurrences of commercial encroachment into residential areas. Basse Road has experienced commercial encroachment in recent years and residents are anxious to ensure that this encroachment go no further. See recommended conditions below.

Analysis:

☒ Request conforms to Land Use Plan

☐ Request does not conform to Land Use Plan

Staff Recommendation:

☒ Supports

☐ Recommends Denial

☐ Alternate Recommendation

The conditional use would be subject to Section 35-422(e) pertaining to Development Constraints in residential areas:

- A. No exterior display or sign with the exception that a nameplate, not exceeding 3 square feet in area may be permitted when attached to the front of the main structure.
- B. No construction features shall be permitted which would place the structure out of character with the surrounding neighborhood.
- C. Business or office hours of operations shall not be permitted before 7 a.m. or after 6 p.m.
An additional condition should be considered to protect neighborhood integrity.
- D. No off-street parking shall be permitted in the front yard area or side yard area. Any off-street parking shall be located behind the primary structure.

Reviewer: Andrew Holubeck

Title: Planner II

Date: 11/30/05

Manager Review: Nina Nixon-Mendez

Date: 1/6/06 Revised

12/30/04

BOARD OF ADJUSTMENT

May 16, 2005

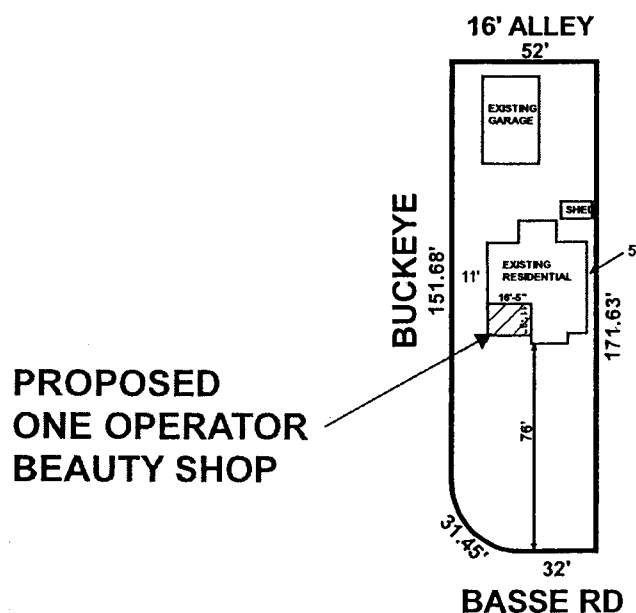
CASE NO. A-05-044

The Board of Adjustment will hold a Public Hearing at 1:00 PM on Monday, May 16, 2005 in the Board Room, located on the 1st floor, Development & Business Services Center, 1901 S. Alamo Street, to consider the following application:

Marissa Chavez DeCastro
Lot 22, Block 3, NCB 9667
2239 Basse Road
Zoned: "R-4" Residential Single-Family District.

The applicant requests a Special Exception to continue to operate a one(1) operator beauty shop in a residential area. The Board of Adjustment must consider a request for a Special Exception as required in the Unified Development Code. The proposed hours of operation will be 9AM to 1PM and 3Pm to 7PM, Monday and Tuesday, and Thursday through Sunday. Closed on Wednesday. Total proposed hours of operation per week is 48 hours.

The Board approved the Special Exception for a 1-year Term with the days and hours of operation being Monday-Tuesday and Friday -Sunday 9 a.m. to 1 p.m. and 3 p.m. to 7 p.m. They will be closed Wednesday and Thursday.



Plot Plan
A-05-044

Produced by the City of
San Antonio Planning Department
in cooperation with Development
Services Department



CITY OF SAN ANTONIO

August 24, 2005

Ms. Marissa Castro
2239 Basse Road
San Antonio, TX 78213

RE: Certificate of Occupancy for One-Operator Beauty Salon

Ms. Castro:

This correspondence is to inform you that your Certificate of Occupancy for a "One-Operator Beauty Salon", issued on May 25th of 2005, may be revoked or suspended. Section 110.4 of the 2003 International Building Codes states as follows:

110.4 Revocation: The building official may, in writing suspend or revoke a certificate of occupancy issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code."

On May 16th of 2005, the Board of Adjustment approved your request for a Special Exception to operate a one-operator beauty salon, for an initial period of one year, with stipulated hours of operation being 9:00 am – 1:00 pm and 3:00 pm – 7:00 pm Friday through Tuesday (closed Wednesday and Thursday). Enclosed is a copy of Section 35-375 of the Unified Development Code that outlines additional conditions that your one-operator beauty salon must adhere to.

We have received numerous complaints and found you to be in violation of several of the conditions. The continued violations and disregard of City Code will result in the revocation of your Certificate of Occupancy.

If you need additional information, you may contact Board of Adjustment Staff at 207-1111 and select the zoning option. Or you may contact Chris Looney, Senior Planner, at 207-5889.

Respectfully,

Florencio Peña, III
Director of Development Services

**DEPARTMENT OF DEVELOPMENT SERVICES
CITY OF SAN ANTONIO**

Date 1/3/06
Address of Violation 2239 BASSE RD. Date of Birth 11/18/45
Name MARISSA CASTRO Driver's License No. TXDL 02037473
Address 2239 BASSE RD. SAN ANTONIO, TX 78213

Your attention is called to a violation of Code No. 06 on above premises. OPERATING
CERTIFICATE OF OCCUPANCY IN VIOLATION OF APPROVED
BOARD OF ADJUSTMENT FOR A SPECIAL EXCEPTION TO
OPERATE A ONE OPERATOR BEAUTY SALON. OPERATING
BUSINESS AT 2:30 PM WITH A CUSTOMER. REVOCATION
OF CERTIFICATE OF OCCUPANCY MAY BE FORTH COMING

Section of Code violated _____

You are hereby notified to remedy the conditions as stated above within _____ (days) (hours) from the date of service of this notice or show cause why you should not be required to do so. If, at the expiration of this time, the same conditions exists and no cause aforesaid be shown, such further action will be taken as the law requires.

06 Mechanical Code
06 Building Code
10 Electrical Code

By Order of the Director
Inspector Emmet Martinez #126

24 Plumbing Code 4162271
28 Signs & Billboards (Posting, Carrying, Etc.)
35 Zoning Regulations (City Code)
35 Landscape
35 Tree Preservation